



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 4, 1998

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-2592

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119289.

The City of Houston (the city) received a request for a variety of information concerning possible workers' compensation claims made by a former employee. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information, Exhibit 2.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. The city claims that the information in Exhibit 2 is protected from disclosure by section 402.083(a) of the Labor Code. Section 402.083(a) of the Labor Code provides that

Information in or derived from a claim file regarding an employee is confidential and may not be disclosed by the commission except as provided by this subtitle.

You state "that records of a claim file regarding a City employee which also remain in the custody of the Commission, such as information found in Exhibit 2, fall clearly within the protection provided by section 402.083(a)." From your arguments, we presume that some of the information in Exhibit 2 was transmitted from the Texas Workers' Compensation Commission (the commission) to the city. See Labor Code §§ 402.084, .085. Section 402.086(a) states that "[i]nformation relating to a claim that is confidential under this

subtitle remains confidential when released to any person, except when used in court for the purposes of an appeal."

This office has concluded that the legislature intended section 402.083(a) to apply narrowly so as to make confidential only information in or derived from a claim file that explicitly or implicitly discloses the identities of employees who file workers' compensation claims. Open Records Decision No. 619 (1993). In other words, the protection of section 402.083(a) does not extend to claim file information that does not implicitly or explicitly reveal a claimant's identity. *Id.* You have not identified which records were obtained from the commission's claim files nor are we able to identify them. Nonetheless, because the requestor seeks information for a named individual, we believe that the city must withhold any information that was obtained from the commission's claim files. Any information in Exhibit 2 that has not been obtained from the commission would not be confidential under section 402.083(a) and must be released. We note, however, that some of the information not covered by section 402.083(a) may be confidential by law and must be withheld. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Gov't Code § 552.117. We have marked a sample of the types of information that must be withheld under 552.101 and 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref.: ID# 119289

Enclosures: Marked documents

cc: Ms. Lisa Pagonico
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(w/o enclosures)